

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

WP(C).No. 31906 of 2006(W)

PETITIONER:

VARGHESE, S/O. VARGHESE, AGED 56 YEARS,
EDASSERY HOUSE, MONODY, P.O.VELLIKULANGARA,
THRISSUR DISTRICT, PIN-680 693.

BY ADV. SRI.SHOBY K.FRANCIS

RESPONDENTS:

1. MATTATHUR GRAMA PANCHAYATH,
MATTATHUR P.O., THRISSUR-680 684,
REPRESENTED BY ITS SECRETARY.
2. KERALA STATE POLLUTION CONTROL BOARD,
DISTRICT OFFICE, THRISSUR, REPRESENTED BY
ITS ENVIRONMENTAL ENGINEER, THRISSUR-2.
3. SUB INSPECTOR OF POLICE,
VELLIKULANGARA POLICE STATION,
VELLIKULANGARA, THRISSUR.
4. NARAYANAN,
KOLANGARAPARAMBIL HOUSE, VELLIKULANGARA VILLAGE,
VELLIKULANGARA P.O., MUKUNDAPURAM TALUK,
THRISSUR DISTRICT.

GOVERNMENT PLEADER SRI. MATHEW J VADAKKAL
BY ADVS. SRI.P.VIJAYA BHANU --R4
SMT.K.S.CHANDRIKA
SRI.P.K.ASHOKAN -- R1
SRI.M.R.VENUGOPAL
SRI. M.K. CHANDRAMOHAN DAS -- R2

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 31/01/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

W.P.(C) NO: 31906/2006 W

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. COPY OF THE COMPLAINT SUBMITTED TO THE R1 PANCHAYATH DT. 30/3/2006.

EXT.P2. COPY OF THE COMPLAINT SUBMITTED TO HEALTH INSPECTOR DATED NIL.

EXT.P3. COPY OF THE ANALYSIS REPORT DT. 20/11/2006 WITH RESPECT TO THE PIG FARM WATER.

EXT.P4. COPY OF THE ANALYSIS REPORT DT. 20/11/2006 BY R2 WITH RESPECT TO THE WHEEL WATER OWNED BY SUBRAMANIAN.

RESPONDENT'S EXHIBITS/ANNEXURE:

EXT.R1. COPY OF THE REPORT DT. 3/1/2007 PREPARED BY THE R1.

EXT.R1A. COPY OF THE NOTICE DT. 15/1/2007 ISSUED TO NO.1 IN EXT. R1 BY IST RESPONDENT.

EXT.R4A. COPY OF THE ORDER IN CRL. MP NO. 2924/2006 IN CRL. RP NO. 137/06 OF THE COURT OF THE SESSIONS JUDGE OF THRISSUR DT. 17/10/2006.

EXT.R4B. COPY OF THE ORDER IN MC NO. 273/06 OF THE COURT OF THE SUB DIVISIONAL MAGISTRATE, THRISSUR DT. 4/10/2006.

EXT.R4C. COPY OF THE APPLICATION DT. 2/1/2006 SUBMITTED BY R1.

EXT.R4D. COPY OF THE NOTICE NO. B. 83/03 DT. 7/12/2006 OF THE R1- PANCHAYATH.

EXT.R4E. COPY OF THE NOTICE NO. B. 83/03 DT. 16/12/2006 OF THE R1.

ANNEXURE R2A. COPY OF THE LETTER NO. PCB/TSR/COM/MUK/99 DT. 15/12/06.

[True Copy]

Tga

PIUS C. KURIAKOSE, J.

W.P.(C) No. 31906 OF 2006

Dated this the 31st day of January, 2007

JUDGMENT

The grievance of the petitioner is that the 4th respondent and his wife are conducting a pig farm within the area of the 1st respondent Panchayat without obtaining the requisite licence and causing hazards to health on account of all types of pollution which is generated due to the unscientific manner in which the pig farm is conducted.

2.The principal relief sought for in the Writ Petition is a writ of mandamus directing the 1st respondent Panchayat, 2nd respondent Pollution Control Board and the 3rd respondent Local Sub Inspector of Police to stop the functioning of the pig farm owned by the 4th respondent. The further relief sought for is that the Panchayat and the Pollution Control Board be directed not to issue any licence or consent to the 4th respondent in the matter of conduct of pig farm. While this Writ Petition came up for admission, I issued notice to the respondents and passed an interim order restricting the 4th respondent from conducting the pig farm unless he has got a valid licence issued by the 1st respondent and is having consent from the 2nd respondent in the matter of conducting the farm. The 4th respondent has not filed any counter affidavit. However a separate application seeking the vacation

of the above stay order has been filed and it is pointed out in the counter affidavit in support of that application that though large numbers of pig farms are functioning within the area of the Panchayat, the 4th respondent alone has been singled out for action. When the attention of Sri.P.K. Ashokan was drawn to this aspect of the matter, he has filed a detailed statement, Annexure R1(a). It is stated therein that apart from this pig farm there are 11 other pig farms within the area of the Panchayat. Ext.R1 is a detailed report regarding the working of those pig farms. It is pointed out that Ext.R1 report was obtained on the basis of the directions of this Court on 21.4.06. It is claimed in the statement that on the basis of Ext.R1 report appropriate action is being taken by the Panchayat against all other pig farms which are functioning without obtaining licence from the Panchayat. Ext.R1(a) is copy of the notice issued to other 11 pig farms. Learned Standing Counsel for the Panchayat submitted that the Panchayat will be finalizing the proceedings initiated as per Ext.R1(a) shortly in accordance with law. Smt.Chandrika, counsel for the 4th respondent submitted that the Panchayat has not yet considered the application for licence submitted by the 4th respondent. Both Mr.Ashokan and Mr.Shoby Francis would take exception to the above submission. Mr.Shoby Francis has placed before me the originals of certificate dt.15.12.06 and letter dt.21.12.06

issued to his client from the Panchayat. These documents will show that no licence has been issued in favour of the 4th respondent for the pig farm in question and further that the application of licence is submitted by the 4th respondent was rejected and that the 4th respondent has been informed of such rejection wide Panchayat's letter dt.22.9.06.

3. Apart from the counsel for the petitioner and for the various respondents in this case, I have heard the learned Government Pleader also. On the basis of the statement filed by the Board, the Standing Counsel for the Pollution Control Board submitted that the pig farm which is being conducted by the 4th respondent is generating lots of pollution and therefore as matters obtained now, it will not be possible for the Pollution Control Board to issue consent. Smt.Chandrika would complain that the inspection conducted by the Pollution Control Board was without notice to the 4th respondent, and it is always open to the Board to issue appropriate directions after conducting fresh inspection regarding the steps for abating the pollution in which case the 4th respondent is willing to comply with all such directions.

4. Having considered the rival submissions it is clear that at present the 4th respondent is not having any licence for conduct of the pig farm. Under these circumstances, the Writ Petition will stand disposed of issuing the following directions:

i. The 4th respondent shall not conduct the pig farm in question without obtaining valid licence from the 1st respondent Panchayat. Since there is some serious controversy before me as to whether the 4th respondent was informed about the rejection of the licence application, I permit the 4th respondent to apply for issuance of fresh licence and for the consent of the 2nd respondent-Board. The 2nd respondent-Board will consider the application for issuance of consent on the basis of an inspection to be conducted with notice to the petitioner also. If necessary, directions will be issued by the 2nd respondent to the 4th respondent so as to enable the Pollution Control Board to issue consent after being satisfied that there is compliance. The 4th respondent will file fresh application for licence within two weeks from today and will file application for consent to the 2nd respondent simultaneously. The 2nd respondent will process the concerned application by doing the needful as indicated above and take a decision on the consent application without further delay. Once the application for licence from the 4th respondent along with the consent from the Pollution Control Board is received by the 1st respondent, the 1st respondent will take a final decision on that application with notice to the petitioner also.

ii. Notwithstanding the first direction that the 4th respondent will not have the permission to conduct the pig farm without obtaining licence, there will be a direction to the 1st respondent Panchayat not to initiate coercive action against the 4th respondent for a period of 7 more days from today.

PIUS C. KURIAKOSE, JUDGE

btt

